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COMMITTEE AGAINST TORTURE
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Conclusions and recommendations of the Committee against Torture

UZBEKISTAN

1. The Committee considered the second periodic report of Uzbekistan (CAT/C/53/Add.1) at its 506th, 509th and 518th meetings, held on 1, 2 and 8 May 2002 (CAT/C/SR.506, 509 and 518), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the second periodic report of Uzbekistan, which was submitted on time and in accordance with the Committee's previous request. It appreciates the substantial information on the many reforms aimed at bringing domestic legislation into harmony with the State party's obligations under the Convention. While noting that there was little information in the report on the implementation of the Convention in practice, the Committee wishes to express its appreciation for the informative oral update given by the representatives of the State party during the consideration of the report, and the State party's willingness to provide further information and relevant statistics in writing.

B. Positive aspects

3. The Committee notes the following positive developments:

(a) The ratification of several significant human rights treaties and the enactment of many laws aimed at bringing the legislation into conformity with the obligations in those treaties;

(b) Educational initiatives taken by the State party to familiarize various sectors with international human rights standards, and the extensive efforts made to cooperate with international organizations to promote understanding of human rights, including by inviting technical cooperation from the Office of the High Commissioner for Human Rights;

(c) The State party's reports of its efforts to draw up a new definition of torture that is consistent with the definition in article 1 of the Convention, and the introduction of a draft law in the parliament to allow citizen's complaints in matters of torture;

(d) Assurances from the representative of the State party that the State is determined to establish an independent judiciary;

(e) The report by the representative of the State party of the establishment of an appeals system for court sentences and the introduction of alternatives to prison sentences, releasing detainees on bail;

(f) The information conveyed by the State party's representative that responses were being developed to the findings of an official study into complaints filed with the Ombudsman's Office that had revealed a number of questionable judicial convictions, incidents of torture or ill-treatment by law enforcement officials, and inadequate supervision of the application of human rights norms by law enforcement agencies;

(g) The prosecution and sentencing in January 2002 of four police officials to prison terms for torture, and the statement by the State party's representative that this was a turning point signalling the State party's commitment to enforce the prohibition against torture in practice.

C. Factors and difficulties impeding the application of the Convention

4. The Committee is aware of the difficulty of overcoming the inheritance of a totalitarian system in the transition towards a democratic form of governance, and that this is compounded by instability in the region. Nonetheless, the Committee stresses that such circumstances cannot be invoked as a justification of torture.

D. Subjects of concern

5. The Committee expresses concern about the following:

(a) The particularly numerous, ongoing and consistent allegations of particularly brutal acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel;

(b) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to independent counsel, a doctor or medical examiner and family members, an important safeguard against torture;

(c) The insufficient level of independence and effectiveness of the procuracy, in particular as the Procurator has the competence to exercise oversight on the appropriateness of the duration of pre-trial detention, which can be extended up to 12 months;

(d) A lack of practical training for (i) doctors in the detection of signs of torture or ill-treatment of persons who have been or are in custody, and (ii) law enforcement personnel and judges in initiating prompt and impartial investigations;

(e) The insufficient independence of the judiciary;

(f) The de facto refusal of judges to take account of evidence of torture and ill-treatment provided by the accused, so that there are neither investigations nor prosecutions;

(g) The fact that the definition of torture in the Criminal Code of the State party is incomplete and, therefore, not in full conformity with article 1 of the Convention;

(h) The numerous cases of convictions based on confessions, and the continued use of the criterion of "solved crimes" as the basis for promotion of law enforcement personnel, which, taken together, create conditions that promote the use of torture and ill-treatment to force detainees to "confess";

(i) The absence of transparency in the criminal justice system and the lack of publicly available statistics on detainees, complaints about torture, and the number and results of investigations into such complaints; moreover, the State party has not provided the information requested in connection with the initial report reviewed in November 1999 regarding the number of persons detained and the number executed after being sentenced to death;

(j) The extradition or expulsion of individuals, including those seeking asylum in Uzbekistan, to countries where they may be exposed to the risk of torture.

E. Recommendations

6. The Committee recommends that the State party:

(a) Proceed promptly with plans to review the proposals to amend its domestic penal law to include the crime of torture fully consistent with the definition contained in article 1 of the Convention and supported by an adequate penalty;

(b) Take urgent and effective steps: (i) to establish a fully independent complaints mechanism, outside the procuracy, for persons who are held in official custody; and (ii) to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of perpetrators;

(c) Ensure that those who complain of torture and their witnesses are protected from retaliation;

(d) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture;

(e) Take measures to establish and ensure the independence of the judiciary in the performance of their duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary;

(f) Adopt measures to permit detainees access to a lawyer, a doctor and family members from the time they are taken into custody and ensure that doctors will be provided at the request of detained persons without the need to obtain the permission of prison officials; and maintain a register with the names of all detainees, the times at which notifications of lawyers, doctors and family members have taken place and the results of medical examinations; this register should be accessible to the lawyers and others as appropriate;

(g) Improve conditions in prisons and pre-trial detention centres and establish a system allowing for unannounced inspections of those places by credible impartial investigators, whose findings should be made public. The State party should also take steps to shorten the current pre-trial detention period and provide independent judicial oversight of the period and conditions of pre-trial detention. Furthermore, the order for an arrest should be made only by a court;

(h) Ensure that law enforcement, judicial, medical and other personnel who are involved in custody, interrogation, treatment or who otherwise come into contact with detainees are trained with regard to the prohibition of torture and that the requalification procedure ("re-attestation") of those personnel include both verification of an awareness of the Convention's requirements and a review of their records in treating detainees;

(i) Consider further steps to transfer the prison system from the Ministry of Internal Affairs to the Ministry of Justice, thereby advancing the conditions of the penitentiary system in accordance with the Convention;

(j) Review cases of convictions based solely on confessions in the period since Uzbekistan became a party to the Convention, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment, and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures;

(k) Ensure in the legislation and in practice that no one will be expelled, returned or extradited to a State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture;

(l) Consider making the declarations under articles 21 and 22 of the Convention;

(m) Provide data in the next periodic report, disaggregated, inter alia, by age, gender, ethnicity and geography, on civil and military places of detention as well as on juvenile detention centres and other institutions where individuals may be vulnerable to torture or ill-treatment

under the Convention; provide information in the next periodic report regarding the number, types and results of cases, both disciplinary and criminal, of police and other law enforcement personnel accused of torture and related offences;

(n) Widely disseminate the Committee's conclusions and recommendations and the summary records of the review of the State party's reports, including to law enforcement officials, in the public media and through popularization efforts by non-governmental organizations;

(o) Consider consulting directly with independent non-governmental human rights organizations in the preparation of the next periodic report.